

Senate Bill 521

By: Senators Tarver of the 22nd, Brown of the 26th, Chance of the 16th, Powell of the 23rd,
Johnson of the 1st and others

A BILL TO BE ENTITLED
AN ACT

To amend Code Section 15-11-2 of the Official Code of Georgia Annotated, relating to definitions relative to juvenile proceedings generally, so as to redefine a term; to amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary education, so as to provide for public school disciplinary actions against students who make terroristic threats against public schools; to provide for civil damages recoverable against parents or guardians of children who make terroristic threats against public schools; to amend Code Section 40-5-22 of the Official Code of Georgia Annotated, relating to persons not to be licensed to operate motor vehicles, minimum ages for licensees, school attendance requirements, and driving training requirements, so as to provide for suspension of drivers' licenses of students who make terroristic threats against schools; to provide an effective date; to provide for applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 15-11-2 of the Official Code of Georgia Annotated, relating to definitions relative to juvenile proceedings generally, is amended by revising paragraph (8) as follows:

"(8) 'Deprived child' means a child who:

- (A) Is without ~~proper parental care or control, subsistence, education as required by law, or other care or control~~ reasonable parental or guardian care, supervision, protection, and control necessary for the child's physical, mental, or emotional health ~~or, education, or morals and for protection of the public safety;~~
- (B) Has been placed for care or adoption in violation of law;
- (C) Has been abandoned by his or her parents or other legal custodian; or
- (D) Is without a parent, guardian, or custodian.

No child who in good faith is being treated solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination

by a duly accredited practitioner thereof shall, for that reason alone, be considered to be a 'deprived child.'

SECTION 2.

Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary education, is amended by revising Code Section 20-2-751.6, relating to disciplinary policy for students committing acts of physical violence against teachers, school bus drivers, or other school official or employees, as follows:

"20-2-751.6.

(a) As used in this Code section, the term ~~'physical violence'~~ means:

(1) ~~Intentionally making~~ 'Physical violence' means:

(A) Intentionally making physical contact of an insulting or provoking nature with the person of another; or

~~(2)(B)~~ (B) Intentionally making physical contact which causes physical harm to another unless such physical contacts or physical harms were in defense of himself or herself, as provided in Code Section 16-3-21.

(2) 'Terroristic threat' means threatening to commit any crime of violence, release any hazardous substance as such term is defined in Code Section 12-8-92, or burn or damage property with the purpose of terrorizing students, faculty, or staff at a public school or of causing the evacuation of a school building, place of assembly, or transportation facility or otherwise causing serious inconvenience to a public school or in reckless disregard of the risk of causing such terror or inconvenience, including without limitation the making of a bomb threat against a school building, place of assembly, or transportation facility.

(b) Local board of education policies and student codes of conduct shall provide for the penalties to be assessed against a student found by a disciplinary hearing officer, panel, or tribunal pursuant to Code Section 20-2-752 to have committed any act of physical violence against a teacher, school bus driver, or other school official or employee or of making a terroristic threat. Such disciplinary hearing officer, panel, or tribunal shall hold any disciplinary hearing in accordance with the provisions of Code Section 20-2-754. Any student alleged to have committed an act of physical violence or made a terroristic threat shall be suspended pending the hearing by the disciplinary hearing officer, panel, or tribunal. The decision of the disciplinary hearing officer, panel, or tribunal may be appealed to the local school board pursuant to Code Section 20-2-754. If appropriate under paragraph (1) of subsection (c) of this Code section, the decision of the disciplinary hearing officer, panel, or tribunal shall include a recommendation as to whether a student may return to public school and, if return is recommended, a recommended time for the

1 student's return to public school. The local school board may impose penalties not
2 recommended by the disciplinary hearing officer, panel, or tribunal.

3 (c)(1) A student found by a disciplinary hearing officer, panel, or tribunal to have
4 committed an act of physical violence as defined in ~~paragraph (2) of subsection (a)~~
5 subparagraph (a)(1)(B) of this Code section against a teacher, school bus driver, school
6 official, or school employee or to have made a terroristic threat shall be expelled from the
7 public school system. The expulsion shall be for the remainder of the student's eligibility
8 to attend public school pursuant to Code Section 20-2-150. The local school board at its
9 discretion may permit the student to attend an alternative education program for the
10 period of the student's expulsion. If the student who commits an act of physical violence
11 or makes a terroristic threat is in kindergarten through grade eight, then the local school
12 board at its discretion and on the recommendation of the disciplinary hearing officer,
13 panel, or tribunal may permit such a student to reenroll in the regular public school
14 program for grades nine through 12. If the local school board does not operate an
15 alternative education program for students in kindergarten through grade six, the local
16 school board at its discretion may permit a student in kindergarten through grade six who
17 has committed an act of physical violence as defined in ~~paragraph (2) of subsection (a)~~
18 subparagraph (a)(1)(B) of this Code section or made a terroristic threat to reenroll in the
19 public school system;.

20 (2) Any student who is found by a disciplinary hearing officer, panel, or tribunal to have
21 committed an act of physical violence against a teacher, school bus driver, school official,
22 or school employee as defined in ~~paragraph (2) of subsection (a)~~ subparagraph (a)(1)(B)
23 of this Code section or made a terroristic threat shall be referred to juvenile court with a
24 request for a petition alleging delinquent behavior; and.

25 (3) Any student who is found by a disciplinary hearing officer, panel, or tribunal to have
26 committed an act of physical violence as defined in ~~paragraph (1) of subsection (a)~~
27 subparagraph (a)(1)(A) of this Code section against a teacher, school bus driver, school
28 official, or school employee may be disciplined by expulsion, long-term suspension, or
29 short-term suspension.

30 (d) The provisions of this Code section shall apply with respect to any local school system
31 which receives state funding pursuant to Code Sections 20-2-161 and 20-2-260.

32 (e) Nothing in this Code section shall be construed to infringe on any right provided to
33 students with Individualized Education Programs pursuant to the federal Individuals with
34 Disabilities Education Act, Section 504 of the federal Rehabilitation Act of 1973, or the
35 federal Americans with Disabilities Act of 1990."

SECTION 3.

Said chapter is further amended by adding a new Code section to read as follows:

"20-2-1181.1.

Any parent or guardian having custody of a minor who has been adjudicated delinquent for making a terroristic threat against a public school in violation of Code Section 16-11-37 shall be liable to the local school district in a civil action for actual costs incurred in responses to such terroristic threat by the school district and local law enforcement agencies or fire departments. Upon recovery of such damages, the school district shall pay over to the city or county governing authority, as applicable, the actual costs incurred by its law enforcement agency, fire department, or both, if any, in responding to the terroristic threat, and the school district shall retain the remaining balance of such award, if any. If the combined total actual costs incurred by the law enforcement agency and fire department exceed the amount recovered, the school district shall have met its obligation by paying over to each of them its proportionate share."

SECTION 4.

Code Section 40-5-22 of the Official Code of Georgia Annotated, relating to persons not to be licensed to operate motor vehicles, minimum ages for licensees, school attendance requirements, and driving training requirements, is amended by revising paragraph (2) of subsection (a.1) as follows:

"(2) The department shall forthwith notify by certified mail or statutory overnight delivery, return receipt requested, any minor issued an instruction permit or driver's license in accordance with this subsection other than a minor who has terminated his or her secondary education and is enrolled in a postsecondary school or who is pursuing a general educational development (GED) diploma that such minor's instruction permit or driver's license is suspended subject to review as provided for in this subsection if the department receives notice ~~pursuant to Code Section 20-2-701~~ from a local school superintendent, visiting teacher, or attendance officer that indicates that such minor:

(A) Has dropped out of school without graduating and has remained out of school for ten consecutive school days;

(B) Has ten or more school days of unexcused absences in the current academic year or ten or more school days of unexcused absences in the previous academic year; or

(C) Has been found in violation by a hearing officer, panel, or tribunal of one of the following offenses, has received a change in placement for committing one of the following offenses, or has waived his or her right to a hearing and pleaded guilty to one of the following offenses:

(i) Threatening, striking, or causing bodily harm to a teacher or other school personnel;

(ii) Possession or sale of drugs or alcohol on school property or at a school sponsored event;

(iii) Possession or use of a weapon on school property or at a school sponsored event.

For purposes of this ~~subparagraph~~ division, the term 'weapon' shall be defined in accordance with Code Section 16-11-127.1 but shall not include any part of an archeological or cultural exhibit brought to school in connection with a school project;

(iv) Any sexual offense prohibited under Chapter 6 of Title 16; ~~or~~

(v) Causing substantial physical or visible bodily harm to or seriously disfiguring another person, including another student; or

(vi) Making a terroristic threat as defined by Code Section 20-2-751.6.

Notice given by certified mail or statutory overnight delivery with return receipt requested mailed to the person's last known address shall be prima-facie evidence that such person received the required notice. Such notice shall include instructions to the minor to return immediately the instruction permit or driver's license to the department and information summarizing the minor's right to request an exemption from the provisions of this subsection. The minor so notified may request in writing a hearing within ten business days from the date of receipt of notice. Within 30 days after receiving a written request for a hearing, the department shall hold a hearing as provided for in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' After such hearing, the department shall sustain its order of suspension or rescind such order. The department shall be authorized to grant an exemption from the provisions of this subsection to a minor, upon such minor's petition, if there is clear and convincing evidence that the enforcement of the provisions of this subsection upon such minor would create an undue hardship upon the minor or the minor's family or if there is clear and convincing evidence that the enforcement of the provisions of this subsection would act as a detriment to the health or welfare of the minor. Appeal from such hearing shall be in accordance with said chapter. If no hearing is requested within the ten business days specified above, the right to a hearing shall have been waived and the instruction permit or driver's license of the minor shall remain suspended. The suspension provided for in this paragraph shall be for a period of one year or shall end upon the date of such minor's eighteenth birthday or, in the case of a suspension under subparagraphs (A) and (B) of this paragraph, upon receipt of satisfactory proof that the minor is pursuing or has received a general educational development (GED) diploma, a high school diploma, a special diploma, a certificate of high school completion, or has terminated his or her secondary education and is enrolled in a postsecondary school, whichever comes first."

SECTION 5.

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2 This Act shall become effective on July 1, 2008, and shall apply to acts or omissions
3 committed on or after that date.

SECTION 6.

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5 All laws and parts of laws in conflict with this Act are repealed.